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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/338,904	06/23/1999	PETER C. JOHNSON	99-40117-US	1951

7590 10/15/2003

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EXAMINER

ALLEN, MARIANNE P

ART UNIT	PAPER NUMBER
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1631

DATE MAILED: 10/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/338,904

Applicant(s)

JOHNSON, PETER C.

Examiner

Marianne P. Allen

Art Unit

1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

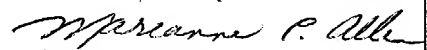
Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 112-163.

Claim(s) withdrawn from consideration: NONE.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Continuation Sheet

  
Marianne P. Allen  
Primary Examiner  
Art Unit: 1631

Continuation of 2. NOTE: Applicant's proposed amendment cancels all pending claims and introduces new claims 164-250. No basis has been pointed to in support of all of the new claims and these claims are substantially different from those previously pending. A cursory review of the claims shows that the proposed claims parallel language and limitations in the claims of both U.S. Patent Nos. 6,581,011 and 6,611,833. However, at least for example, proposed claim 1 differs in step C from each of these patents. There is no limitation to layer thickness. It also lacks a terminal period ("."). It is noted that the issued patents were filed on the same day as the instant application and have no continuity relationship. As such, applicant cannot rely upon similar language in a related patent as establishing basis in the instant application. Applicant traverses the double patenting rejection with respect to these two patents; however the cursory review of the claims indicates that all of the steps required by the instant claims is required by both sets of patented claims. While applicant argues that the newly proposed claims can be distinguished from the instant claims, they have not done so. Finally, the newly proposed claims do not possess limitations to computer implementation and the information obtained is not saved nor stored in any fashion raising questions concerning enablement. For all of these reasons, the newly proposed claims would require further search and consideration.

Continuation of 10. Other: Applicant is correct that the claims renumbered in accordance with 37 CFR 1.126 as discussed in the prior Office action should have been renumbered as claims 135 through 163 rather than 134-162. All rejections are maintained for reasons of record.